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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

GREGORY ALLEN SPANI,

Defendant and Appellant.

D070730

(Super. Ct. No. SCD260074)

APPEAL from a judgment of the Superior Court of San Diego County, Yvonne E. Campos, Judge. Affirmed.

Laura R. Sheppard, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Collette C. Cavalier and Marvin E. Mizell, Deputy Attorneys General, for Plaintiff and Respondent.

A jury convicted Gregory Allen Spani of possessing methamphetamine for sale in violation of Health and Safety Code<sup>1</sup> section 11378. As part of his sentence, the court imposed a \$50 criminal laboratory analysis fee (lab fee) under section 11372.5, subdivision (a), plus penalty assessments on that fee—bringing the total amount of the lab fee to \$205.<sup>2</sup>

Spani concedes the court properly assessed the \$50 lab fee, but contends the court erred in concluding the penalty statutes<sup>3</sup> applied to require an additional penalty on top of that fee. He raises no other issue on appeal.

There is a split of authority in the Courts of Appeal on this issue. (See *People v. Watts* (2016) 2 Cal.App.5th 223 [penalty not permitted]; *People v. Martinez* (1998) 65 Cal.App.4th 1511, 1520-1522 [penalty required].)

Recently, in *People v. Alford* (2017) 12 Cal.App.5th 964 (*Alford*), this Court analyzed the conflicting lines of authority and determined the lab fee under section 11372.5, subdivision (a) is subject to additional penalty assessments. We discern no persuasive reason to depart from *Alford*. (*People v. Bolden* (1990) 217 Cal.App.3d 1591, 1598.)

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<sup>1</sup> Undesignated statutory references are to the Health and Safety Code.

<sup>2</sup> Section 11372.5, subdivision (a) provides in part: "Every person who is convicted of a violation of [specified drug offenses, including section 11378] shall pay a criminal laboratory analysis fee in the amount of fifty dollars (\$50) for each separate offense."

<sup>3</sup> The penalty statutes (Pen. Code, § 1464; Gov. Code, § 76000) mandate that a court impose a penalty assessment "upon every fine, penalty, or forfeiture imposed and collected . . . for criminal offenses" with certain exceptions not applicable here. (See *People v. Talibdeen* (2002) 27 Cal.4th 1151, 1153-1154.)

DISPOSITION

The judgment is affirmed.

NARES, J.

WE CONCUR:

BENKE, Acting P. J.

DATO, J.